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10/714,097

11/14/2003

Scott C. Harris

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EXAMINER

WALSH, DANIEL I

ART UNIT

PAPER NUMBER

2887

NOTIFICATION DATE

DELIVERY MODE

11/15/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

scott@harrises.com

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|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/714,097 | <b>Applicant(s)</b><br>HARRIS, SCOTT C. |  |
|                              | <b>Examiner</b><br>DANIEL WALSH      | <b>Art Unit</b><br>2887                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18, 19, 29-31, 49, 50 and 59-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 29-31, 49, 50 and 59-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4-15-10</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 8-16-10. PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/STEVEN S. PAIK/

Supervisory Patent Examiner, Art Unit 2887

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 18-19, 29-31, 49-50, 59, and 63 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites obtaining an image of a barcode (CCD based) but then recites they are interpreted by a first and second scanning process (laser). Therefore it is unclear how to have imaging and laser based scanning together on the same code. For purposes of examination the Examiner will interpret it as only CCD/image based.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 18, 29, 30, 31, 49, 50, 59, and 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler as discussed in the previous action in view of Wilz, Sr. et al. (US 20030034399) and further in view of Tracy et al., as discussed in the previous Office Action.

Schuessler teaches a composite barcode symbology, interpreted as a dual type barcode with a first part interpreted by a first bar code scanning process to obtain first information and a second part which is interpreted by a second bar code scanning process to obtain second information which is more than the first (paragraph [0008] and [0010] which teaches product information encoded in the 1d code and supplementary (additional) information encoded in the 2d barcode portion and wherein both the 1d and 2d data are communicated together when read by a 2d reader, interpreted as a CCD/image based reader, not the “old generation” laser scanners). The Examiner notes paragraphs [0030]+ which teach how to decode such composite symbology is interpreted

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to be performed by an image based (CCD) barcode reader, since not only are 2d barcodes being decoded, but the software is being used to save data, look for data, combine different barcode sections, apply voting algorithms, and paragraph [0055]+ teaches the different types of data read out from the 1d and 2d parts, thus it is obvious to one of ordinary skill in the art that in order to read both sections (1d and 2d) and combine and merge, that an imaging based (CCD reader would be used for such purposes).

Accordingly, CCD based readers are known in the art to capture an image (complete) and then process it accordingly. Therefore, this is interpreted to read on said using to obtain an image comprises obtaining a whole image and processing the image to obtain the first and second part data.

Schuessler teaches additional information in the 2d section (due to increased storage capacity) but is silent to receiving information obtained from a remote server.

Wilz, Sr. et al. teaches the use of 1d and 2d url encoded barcodes (paragraph [0044-0045] and that precuts information can be linked to the bar-coded url's (paragraph [0125])), which are interpreted as receiving information from a remote server based on a meaning representing by the barcode, and including the additional information.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler with those of Wilz, Sr. et al. One would have been motivated to do this in order to provide more additional product information beyond that encoded into the barcode, by providing the URL encoded portion.

Schuessler/Wilz Sr. et al. are silent to the recited camera, display, telephone call, and image processing (CCD based).

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Tracy et al. teaches using a portable communication device (portable terminal; see abstract) with a camera (CCD based; col 3, lines 35+), and a display therein (display 72), to obtain an image of a barcode (via CCD capture as taught above), receiving and displaying, on said display unit of said portable communication device, information obtained from a remote server (col 2, lines 25+ and col 2, lines 40+), which information indicates information based on a meaning that was represented by the barcode, said meaning being additional information beyond that which was present in at least one part of the barcode (as the information is additional webpage information not present on the barcode, its interpreted as different and additional information not present in the barcode, and is based on a meaning represented by the barcode as the barcode points to such a webpage), using said portable communication device to make a telephone call (col 2, lines 57+, col 3, lines 56+, 706), wherein said using to obtain an image comprises obtaining a whole image of the barcode and later processing the image to obtain information using a processor to obtain barcode information (this is understood as how a CCD based barcode reader works, namely an image is captured, and then processed to decode the barcode).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Wilz Sr. et al. with those of Tracy et al.

One would have been motivated to do this for portability and ease of use.

Re claim 29, the limitations have been discussed above, via the 2d barcode above the linear barcode.

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Re claim 30, in it understood that scans would occur in different directions in order to decode the 2d and 1d barcodes, as is known in the art.

Re claim 31, the Examiner notes that both the first and second part can be interpreted as a color of the barcode, as the barcodes are made up of color (black bars and white spaces).

Re claim 49, the Examiner notes that Wilz, Sr. et al. teaches (as discussed above) that the URL encoded barcodes can be part of manuals and brochures for products that are scanned and used to fetch more data via the internet. Given such printed matter encoded with URL encoded barcodes, the Examiner notes it would have been obvious to use an advertisement/scan an advertisement, for providing product information, as it a brochure/manual can be interpreted as an advertisement. Further, the Examiner notes that the type of carrier for the printed matter/barcode, is an obvious matter of design variation/constraints, because one of ordinary skill in the art would have recognized that providing URL encoded barcodes on various types of printed matter (brochures, flyers, literature, advertisements, articles, books, etc.) linked to more information via a database/internet, would have provided the expected results of holding a barcode that when scanned would have provided additional product information. Therefore, the selection of what type of carrier/printed matter/substrate to hold the barcode would have been well within the ordinary skill in the art to produce such expected results. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wilz, Sr. et al. in order to provide a carrier/substrate tied to the additional information in order to provide a logical way for a user to obtain additional information.

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Re claims 60-62, the limitations have been discussed above re claims 18, 29, and 30.

Re claim 63, the limitations have been discussed above re claim 31.

2. Claims 18, 19, 29, 30, and 31, 49-50, 59, and 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Wilz, Sr. et al./Tracy et al., as discussed above, in view of Ogasawara, as cited in the previous Office Action.

The teachings of Schuessler/Wilz, Sr. et al./Tracy et al. have been discussed above.

Schuessler/Wilz, Sr. et al./Tracy et al. are silent to sending video at a different time than the barcode transfer of information or the telephone call, and is silent to the device being identified as a telephone, even though it has telephone circuitry and supports telephone communication.

Ogasawara teaches a video telephone (abstract and paragraph [0123]) that is able to make phone calls and capture video and decode barcodes).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Wilz, Sr. et al./Tracy et al. with those of Ogasawara.

One would have been motivated to do this

Re claim 29, the limitations have been discussed above, via the 2d barcode above the linear barcode.

Re claim 30, in it understood that scans would occur in different directions in order to decode the 2d and 1d barcodes, as is known in the art.



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Re claim 31, the Examiner notes that both the first and second part can be interpreted as a color of the barcode, as the barcodes are made up of color (black bars and white spaces/modules).

Re claims 49-50, the Examiner notes that Wilz, Sr. et al. teaches (as discussed above) that the URL encoded barcodes can be part of manuals and brochures for products that are scanned and used to fetch mode data via the internet. Given such printed matter encoded with URL encoded barcodes, the Examiner notes it would have been obvious to use an advertisement/scan an advertisement, for providing product information, as it a brochure/manual can be interpreted as an advertisement. Further, the Examiner notes that the type of carrier for the printed matter/barcode, is an obvious matter of design variation/constraints, because one of ordinary skill in the art would have recognized that providing URL encoded barcodes on various types of printed matter (brochures, flyers, literature, advertisements, articles, books, etc.) linked to more information via a database/internet, would have provided the expected results of holding a barcode that when scanned would have provided additional product information. Therefore, the selection of what type of carrier/printed matter/substrate to hold the barcode, would have been well within the ordinary skill in the art to produce such expected results. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wilz, Sr. et al. in order to provide a carrier/substrate tied to the additional information in order to provide a logical way for a user to obtain additional information.

Re claim 59, the Examiner has interpreted that the url encoded section of the barcode is a pointer to a remote database that when decoded, determines information of

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the pointer that is used to fetch the meaning (information) from the database by using the pointer.

Re claims 60-62, the limitations have been discussed above re claims 18, 29, and 30.

Re claim 63, the limitations have been discussed above re claim 31.

3. Claims 31 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Wilz, Sr. et al./Tracy et al., as discussed above, in view of Shoobridge (US 7185816).

The teachings of Schuessler/Wilz, Sr. et al./Tracy et al. have been discussed above.

Schuessler/Wilz Sr. et al./Tracy are silent to the second part being grayscale or color of the barcode.

Shoobridge teaches such limitations (FIG. 5b, which shows a 2d barcode with boxes of shades of gray as a 3rd dimension to add more data (abstract)).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Wilz, Sr. et al./Tracy et al. with those of Shoobridge.

One would have been motivated to do this to provide additional data storage along with robustness, reduced errors, and alternative identification, realizing that grayscale can be applied to one of the first and second parts for expected results.

Re claim 63, the limitations have been discussed above re claim 31.

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4. Claims 31 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Wilz, Sr. et al./Tracy et al./Ogasawara, as discussed above, in view of Shoobridge.

The teachings of Schuessler/Wilz, Sr. et al./Tracy et al./Ogasawara have been discussed above.

Schuessler/Wilz, Sr. et al./Tracy et al./Ogasawara are silent to the second part being grayscale or color of the barcode.

Shoobridge teaches such limitations (FIG. 5b, which shows a 2d barcode with boxes of shades of gray as a 3rd dimension to add more data (abstract)).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Wilz, Sr. et al./Tracy et al./Ogasawara with those of Shoobridge.

One would have been motivated to do this to provide additional data storage along with robustness, reduced errors, and alternative identification, realizing that grayscale can be applied to either one of the first and second parts for expected results.

Re claim 63, the limitations have been discussed above re claim 31.

5. Claims 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Wilz, Sr. et al./Tracy et al./Ogasawara, as discussed above, in view of Swartz et al., as discussed above.

Schuessler/Wilz, Sr. et al./Tracy et al./Ogasawara are silent to the explicit use of “advertisement”.

Swartz et al. teaches such limitations (col 7, lines 50+)

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Wilz, Sr. et al./Tracy et al./Ogasawara with those of Swartz et al.

One would have been motivated to do this in order to link an advertisement to more detailed information.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

7. In response to the Applicants argument about obtaining a whole image and then processing it after the image is obtained, the Examiner believes that is how traditional CCD barcode readers work (see US 5369264 (col 2, lines 17+) which teach that CCD barcode readers capture a whole barcode image and then process it). As the prior art relief upon above teaches a CCD for barcode decoding, the Examiner has interpreted that such a CCD based scanner captures an image and then decodes it afterwards, consistent with conventional CCD readers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409. The examiner can normally be reached on M-F 9am-7pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/  
Primary Examiner, Art Unit 2887